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U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE

**TRANSMITTAL SUBMITTING NEW
DECLARATION AND POWER OF ATTORNEY**

Docket Number:
10567/1

Application Number
09/151,115

Filing Date
September 10, 1998

Examiner
Michelle R. Connelly
Cushwa

Art Unit
2874

Title
TELECOMMUNICATIONS FIBER OPTIC
INFRASTRUCTURE

Applicant(s)
Thomas A. GLYNN

Address to:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-14501 on

Date: October 22, 2003

Signature: Michael Paul
Michael Paul (Reg. 53,443)

Pursuant to 37 C.F.R. 1.42, 1.63 and 1.64, enclosed please find a Declaration and Power of Attorney executed by Constance Glynn, the spouse of the deceased inventor. Also enclosed is a copy of the Last Will and Testament which shows that Constance Glynn is the Heir and Executrix of the estate of Thomas A. Glynn.

1. The Commissioner is hereby authorized to charge any payments to **Kenyon & Kenyon**, deposit account number **11-0600**.
2. A duplicate copy of this sheet is enclosed.

Dated: October 22, 2003

BY:

Michael Paul
Michael Paul (Reg. No. 53,443)

KENYON & KENYON
One Broadway
New York, N.Y. 10004
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CUSTOMER NO. 26646

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(10576/1)

DECLARATION AND POWER OF ATTORNEY

As the below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am an original, first and sole inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled **TELECOMMUNICATIONS FIBER OPTIC INFRASTRUCTURE**, the specification of which was filed as U.S. Serial No. 09/151,115 on September 10, 1998.

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims.

I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, § 1.56(a).

And I hereby appoint Robert F. Perry (Registration No. 34,897), Dervis Magistre (Registration No. 41,172), and Michael P. Paul (Registration No. 53,443) my attorneys with full power of substitution and revocation, to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith.

Please address all communications regarding this application to:

KENYON & KENYON
One Broadway
New York, New York 10004

Direct all telephone calls to Robert F. Perry at (212) 908-6025.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Inventor: **Thomas A. GLYNN (Deceased)**

Date: 10/3/03

Constance Glynn
Constance GLYNN

Residence: 8714 Colonial Road
Brooklyn, NY 11209

Citizenship: United States of America

Post Office Address: Same as above.

☒ Heir To The Estate of Thomas A. GLYNN (Deceased).

☐ Administrator(trix) To The Estate of Thomas A. GLYNN (Deceased).

☒ Executor(trix) To The Estate of Thomas A. GLYNN (Deceased).

Last Will and Testament

I, **THOMAS GLYNN**, County of Kings, State of New York, do make, publish and declare this instrument to be my last will and testament, hereby revoking all former wills and codicils.

ARTICLE ONE: I direct my Executrix or substitute thereof to pay all of my funeral expenses as soon after my demise as is practical.

ARTICLE TWO: All of the rest residue and remainder of my property and estate, real and personal, of whatever nature and wherever situated, including any property hereinbefore mentioned but not effectually disposed of, I give, devise and bequeath to **CONSTANCE GLYNN**, my wife. Should **CONSTANCE GLYNN**, my wife, predecease me, then all of the rest, residue and remainder of my property and estate, real and personal, of whatever nature and wherever situated, including any property hereinbefore mentioned but not effectually disposed of, I give, devise and bequeath to **KEITH THOMAS GLYNN**, my son, per stirpes, and **CHRISTOPHER GLYNN**, my son, per stirpes.

For informational purposes, my only children are: **KEITH THOMAS GLYNN** and **CHRISTOPHER GLYNN**.

ARTICLE THREE: If any of my beneficiaries and I should die simultaneously or under such conditions and circumstances that it would be difficult or impossible to determine which of us died first, then it shall be deemed that said beneficiary/ies shall have predeceased me and that my Will and all of it's provisions shall be construed as if said beneficiary/ies predeceased me.

ARTICLE FOUR: I appoint, **CONSTANCE GLYNN**, my wife, to be the executrix of this will. I authorize and appoint **CHRISTOPHER GLYNN**, my son, as successor executor in her place, such appointment to take effect upon the death, resignation or incapacity of the executrix first named.

The terms executor and executrix, and the masculine and feminine shall be used herein interchangeably.

ARTICLE FIVE: I hereby direct that all transfer, estate, inheritance, succession and other death taxes payable by reason of my death, together with interest and penalties thereon, shall be paid out of my general estate as an administration expense without apportionment, whether assessed with respect to property which passes pursuant to the terms of this my Will or any Codicil hereto or passes or passed otherwise than under this my Will or any Codicil thereto. It is further provided, however, that this provision shall not be construed to authorize the payment from the assets of my general estate any transfer, estate, inheritance, success or other death tax, of whatsoever kind or description, which is assessed against any recipient of a devise or legacy by a foreign jurisdiction.

ARTICLE SIX: Whenever any property, whether principal or income, vests pursuant to the provisions of this will in a minor, the person acting hereunder as executor shall have the right as donee of a power during minority, upon the distribution of such property, to hold and manage the same until such minor attains his or her majority, and may exercise in respect of such property and the income thereof all powers conferred by this will and by law on my executor, including the power to apply any such property or the income thereof in his absolute discretion to the use of such minor. Said donee shall be entitled to receive such compensation as he would be entitled to receive if he were holding the property as trustee of a separate trust under this will and shall not be required to render periodic accounts to any court.

This Article shall apply only if the trust provided herein is not sufficient or effective to receive and dispose of my estate regarding minors.

For the purposes of this will minority is defined as any person who has not attained their twenty-fifth (25TH) birthday.

ARTICLE SEVEN: I authorize and empower my executrix to exercise from time to time in absolute discretion and without prior authority from any court in respect of any property forming part of my estate or otherwise in his possession hereunder, all powers conferred by law upon executors, and expressed in this will, and I intend that such powers including the following be construed in the broadest possible manner:

- (1) Power to determine what property is covered by descriptions contained in this will.
- (2) Power to pay my debts and funeral expenses as soon as the convenience of my estate will permit, and to pay or deliver any legacy without waiting the time prescribed by law.
- (3) Power to invest or reinvest in such securities or other property, real or personal whether within or without the United States, and to retain any property at any time received or held by him hereunder for such period as he shall in his sole discretion determine, whether or not the same be income-producing.
- (4) Power to borrow in the name of my estate such sums for such periods and upon such terms as he shall deem necessary or convenient in the administration of my estate, and to secure any such loan by mortgage or pledge. No lender shall be bound to see to or be liable for the application of the proceeds, and no executor or trustee shall be personally liable, but each such loan shall be payable only out of assets of my estate.
- (5) Power to apply to the use of any person any property, whether principal or income, vesting in or payable to such person, and in the case of a minor
 - (a) to do so without regard either to the duty of any person to furnish

support for such minor or the availability of other funds for such purpose, or (b) to pay or deliver the same to such minor, or to a guardian or custodian under a gifts to minors act, including a custodian selected by my executor, or to a parent of such minor, or to a person with whom such minor resides, or to any person authorized by this will to hold the same under a power during minority.

- (6) Power to make distributions, including the satisfaction of any pecuniary bequest, in cash or in specific property, real or personal, or an undivided interest therein, or partly in cash and partly in such property, and to do so without regard to the income tax basis of specific property allocated to any beneficiary.
- (7) Power to engage the services of attorneys, accountants, agents, etc. at the expense of the estate in order to manage and execute my instructions regarding my Estate.

ARTICLE EIGHT: Each executrix named herein and acting hereunder shall be exempt from giving any bond or other security in any jurisdiction. No executrix shall be liable for the acts or defaults of a co-executrix. Each executrix shall be deemed to have acted within the scope of her or its authority, to have exercised reasonable care, diligence and prudence, and to have acted impartially as to all persons interested unless the contrary be proved by affirmative evidence, and in the absence of such proof shall not be liable for loss arising from depreciation or shrinkage in value of any property herein authorized to be held or acquired. The provision of the Article shall apply to any person acting hereunder as donee of a power during minority.

ARTICLE NINE: If any share of my estate shall, under any of the provisions of this my Will, be payable to any then living child of mine or if said child is deceased said child's issue, who is then under the age of twenty-five (25) years, then the disposition of such share in favor of such child or issue of any deceased child of mine shall not be operative, and, instead, I give, devise and bequeath such share to my Trustee hereinafter named, **IN TRUST, NEVERTHELESS,** and I direct my Trustee to retain such share, **IN FURTHER TRUST, NEVERTHELESS,** as the case may be, to hold, manage and invest the same, to collect the income thereon, and, until such child or issue of any deceased child of mine attains the age of twenty-five (25) years, to pay to or apply for the benefit of such child or the issue of any deceased child of mine so much or all of the net income thereof as my Trustee, in its sole discretion, deems necessary or desirable for **the support, maintenance, health, education, comfort or general welfare of such child or issue of any deceased child of mine.** Any balance of net income not so paid or applied shall be added to principal annually.

In addition, my Trustee shall be authorized to pay to, or to apply for the benefit of, any then living child of mine or issue of any deceased child of mine such amount or amounts of the principal of this trust, at any time or from time to time, as such Trustee shall in its sole and absolute discretion deem advisable for the maintenance, support, education, comfort, welfare or benefit of any then living child of mine or issue of any deceased child of mine.

Each share of my residuary estate payable to any then living child of mine or issue of any deceased child of mine, who is then under the age of twenty-five (25) years must be held by my trustee as if they were separate accounts for said living child of mine or issue of any deceased child of mine. At no time may distributions under this trust to any then living child of mine or issue of any deceased child of mine exceed that share of my residuary estate due any then living

child of mine or issue of any deceased child of mine, plus interest, dividends and appreciation thereof.

My Trustee shall have sole and absolute discretion to determine the time, manner, amounts, necessity or desirability of making any payment to my beneficiaries. In so doing my Trustee need not take into account any income, assets or other resources of the any then living child of mine or issue of any deceased child of mine or the obligation imposed on anyone to furnish his or her support. The decisions of my Trustee in carrying out this grant of discretion shall be final and binding.

Upon each then living child of mine or issue of any deceased child of mine obtaining the age of twenty-five (25) years, said child or issue of any deceased child of mine shall be receive his share of the corpus, with dividends, interest and appreciation, of the trust as previously set forth herein.

ARTICLE TEN: I nominate, constitute and appoint **CONSTANCE GLYNN**, my wife, to be trustee of the trust established in **Article Nine** above. If she for any reason, fails to qualify or ceases to act as trustee, I nominate, constitute and appoint **CHRISTOPHER GLYNN**, my son, to be trustee of the trust established in **Article Nine** above. In the event **CONSTANCE GLYNN**, my wife, ^{and} ~~or~~ **CHRISTOPHER GLYNN**, my son, for any reason fail to qualify or cease to act as trustee, I nominate, constitute and appoint **ANDREW BABIAK**, my nephew to be trustee of the trust established in **Article Nine**.

The trustee shall additionally have all of the powers and authority as provided the Executor in **Article Seven** of this will .

No bond or other security shall ever be required of any trustee named herein for acting as such in any jurisdiction, nor shall any trustee named herein ever be required to make, file, or give any annual or other periodic statements or accounts, whether in connection with its rights to

commissions or otherwise and whether by required by any statute or other rule of law either know or hereafter in force.

The provisions of this Article shall apply to any person acting hereunder as donee of a power during minority.

IN WITNESS WHEREOF I have hereunto set my hand and seal this 13th day of May in the year 2003.

Thomas Glynn L.S.

SIGNED, SEALED, PUBLISHED and DECLARED by **THOMAS GLYNN**, the testator above named, as and for his last will and testament, in our presence, and we at his request, in his presence, and in the presence of each other, have hereunto subscribed our names as witnesses on the day and year last above written.

Frank T. Strasz residing at
FRANK T. STRASZ

569 Bay Ridge Parkway
Brooklyn, NY 11209

Chaire King residing at
CHAIRE KING

1065-80 Street
Brooklyn, NY 11208

Kim Mathis residing at
KIM MATHIS

50 Battery Place, 5W
NY NY 10280

AFFIDAVIT FOR SUBSCRIBING WITNESSES

**STATE OF NEW YORK)
COUNTY OF KINGS**

) ss:

Each of the undersigned, individually and severally, being sworn, deposes and says:

The within will was subscribed in our presence and sight at the end thereof by **THOMAS GLYNN**, the within named testator on the 13th day of May, 2003, at 569 Bay Ridge Parkway, Brooklyn, New York 11209, in the law office of **FRANK T. STRAFACI, ESQ.**

Said testator at the time of making such subscription declared the instrument so subscribed to be his last Will.

Each of the undersigned thereupon signed his or her name as a witness at the end of said Will, at the request of said testator and in his presence and sight and in the presence and sight of each other.

Said testator was, at the time of so executing said Will, over the age of eighteen years, and, in the respective opinions of the undersigned, of sound mind, memory and understanding and not under any restraint or in any respect incompetent to make a Will.


Said testator in the respective opinions of the undersigned, could read, write and converse in the English language and was suffering from no defect of sight, hearing or speech, or from any other physical or mental impairment which would affect his capacity to make a valid Will. The Will was executed as a single, original instrument and was not executed in counterparts.

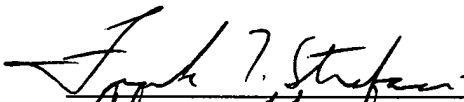
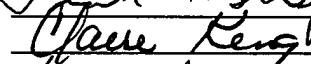
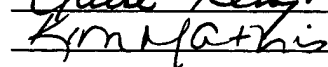
Each of the undersigned was acquainted with said testator at such time, and makes this affidavit at his request.

The foregoing instrument was executed by said testator and witnessed by each of the undersigned affiants under the supervision of **FRANK T. STRAFACI, ESQ.**, an attorney-at-law.

The within Will was shown to the undersigned at the time this affidavit was made, and was examined by each of them as to the signatures of said testator and of the undersigned.

Severally sworn to before me this
13th day of May, 2003.


YVONNE MACAULEY
Notary Public, State of New York
No. 24-4686926
Qualified in Kings County
Commission Expires 9/30/05

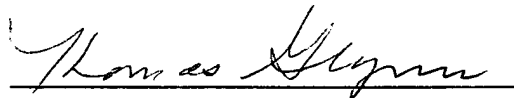




I have been advised by my attorney, FRANK T. STRAFACI, ESQ., that the preparation of a will is a complicated document which may have adverse tax consequences against my estate.

Mr. Strafaci has advised me accordingly; however, I have not retained Mr. Strafaci to offer tax advice and as such, Mr. Strafaci has advised me that I should seek same from a certified public accountant.

It is my own choice that I have not sought tax advice regarding the preparation of my Will and I fully understand that any taxes imposed by the State or Federal Taxing authorities will be levied against my estate and my heirs and payment shall be made therefrom.

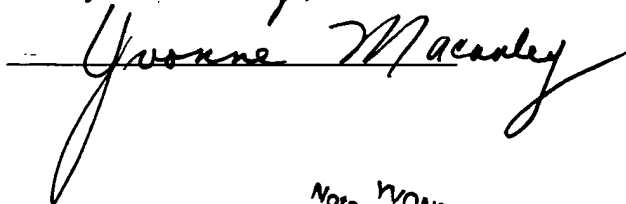
Dated: 5/13/03



THOMAS GLYNN

Sworn to before me this

13th day of May, 2003



ThomasLWT

YVONNE MACAULEY
Notary Public, State of New York
No. 24-4686926
Qualified in Kings County
Commission Expires 9/30/05